

# Kentucky Department of Education Version of **AIA Document C132™ – 2009**

## ***Standard Form of Agreement Between Owner and Construction Manager as Adviser***



This version of AIA Document C132™–2009 is modified by the Kentucky Department of Education. Publication of this version of AIA Document C132–2009 does not imply the American Institute of Architects' endorsement of any modification by the Kentucky Department of Education. A comparative version of AIA Document C132–2009 showing additions and deletions by the Kentucky Department of Education is available for review on the Kentucky Department of Education Web site.

Cite this document as "AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser — KDE Version," or "AIA Document C132™–2009 — KDE Version."

# Kentucky Department of Education Version of AIA Document C132™ – 2009

## Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_  
in the year TWO THOUSAND TWENTY FOUR  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)  
Simpson County Board of Education  
430 South College Street  
Franklin, KY 42134

and the Construction Manager:  
(Name, legal status, address and other information)  
Alliance Corporation  
116 East College Street  
Glasgow, KY 42141

for the following Project:  
(Name, location and detailed description)  
Simpson Co CTE Improvements & Alternative School Addition  
Franklin, KY

The Architect:  
(Name, legal status, address and other information)  
Ross Tarrant Architects  
101 Old Lafayette Avenue  
Lexington, KY 40502

The Owner and Construction Manager agree as follows.



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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with KDE versions of AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition.

AIA Document A232™–2009 — KDE version is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



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### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

§ 1.1.1 The Owner's program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

One Single Phase

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

TBD

**§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:**

*(Provide total and, if known, a line item breakdown.)*

\$14,500,000.00

**§ 1.1.4 The Owner's anticipated design and construction schedule:**

- .1** Design phase milestone dates, if any:  
February 2025
- .2** Commencement of construction:  
May 2025
- .3** Substantial Completion date or milestone dates:  
November 2026
- .4** Other:  
NA

**§ 1.1.5 The Owner intends the following procurement method for the Project:**

*(Identify method such as competitive bid, negotiated Contract or multiple Prime Contracts.)*

Multiple Prime Contracts

**§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:**

*(List number and type of bid/procurement packages.)*

NA

**§ 1.1.7 Other Project information:**

*(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)*

NA

**§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:**

*(List name, address and other information.)*

Tim Schlosser, Simpson County Board of Education, 430 S College Street, Franklin, KY 42134

**§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:**

*(List name, address and other information.)*

NA

**§ 1.1.10 Unless provided by the Construction Manager, the Owner will retain the following consultants and contractors:**

*(List name, legal status, address and other information.)*

**.1 Land Surveyor:**

NA

**.2 Geotechnical Engineer:**

NA

**.3 Civil Engineer:**

Ross-Tarrant Architects, 101 Old Lafayette Avenue, Lexington, KY 40502

**.4 Other:**

*(List any other consultants retained by the Owner, such as a Project or Program Manager, or construction contractor.)*

Structural Engineer: BFW, Inc  
500 S 17th Street  
Paducah, KY 42003

MEP Engineer - Marcum Engineering  
500 S 17th Street  
Paducah, KY 42003

**§ 1.1.11 The Construction Manager identifies the following representative in accordance with Section 2.4:**

*(List name, address and other information.)*

Ryan Martin, Project Executive - Alliance Corporation, 116 East College Street, Glasgow, KY 42141

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:  
(List any specific requirements and personnel to be included in the staffing plan, if known.)

TBD

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

.1 Cost Estimator:

(List name, legal status, address and other information.)

Derrick Akers, Alliance Corporation

116 E College Street, Glasgow, KY 42141

.2 Other consultants:

NA

§ 1.1.14 The Construction Manager's consultants retained under Additional Services:

NA

§ 1.1.15 Other Initial Information on which the Agreement is based:

NA

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the schedules, the Construction Manager's services and the Construction Manager's compensation.

## ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Construction Manager shall perform its services consistent with the skill and care ordinarily provided by construction managers practicing in the same or similar locality under the same or similar circumstances. The Construction Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Construction Manager shall provide its services in conjunction with the services of an Architect as described in AIA Document B132™-2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition — KDE Version. The Construction Manager shall not be responsible for actions taken by the Architect.

§ 2.4 The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Construction Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Construction Manager's judgment with respect to this Project.

## § 2.6 Construction Manager's Liability Insurance

### § 2.6.1 – § 2.6.6 (Not Used)

§ 2.6.7 The Construction Manager shall purchase and put in place a 100% Performance and Payment Bond, AIA Document A312, 2010 — KDE Version, in the amount of the Construction Manager fee before the construction contracts are executed by the Owner. The Bonds shall be written by a company authorized to do business in the Commonwealth of Kentucky.

§ 2.6.8 During the term of this Agreement, the Construction Manager agrees to provide evidence of insurance coverage in the amounts stated. In addition, the Construction Manager agrees to attempt to maintain continuous professional liability coverage for the period of design and construction of this project, and for a period of two (2) years following substantial completion, if such coverage is reasonably available at commercially affordable premiums. For the purposes of this Agreement, "reasonably available" and "commercially affordable" shall mean that more than half the architects practicing in the State are able to obtain such coverage.

Professional liability coverage shall be provided in the following minimum amounts:

- |    |                                    |  |
|----|------------------------------------|--|
| .1 | Projects up to \$10,000,000        | \$500,000 per claim and<br>\$500,000 per annual aggregate; and |
| .2 | Projects in excess of \$10,000,000 | \$1,000,000 per claim and<br>\$1,000,000 per annual aggregate. |

The deductible for these policies shall not exceed five percent (5%) of the total limit of liability.

§ 2.6.9 The Construction Manager shall maintain all liability requirements in accordance with the General Conditions of the Contract as follows:

The insurance required shall be written for not less than the following:

- |    |   |  |
|----|---|--|
| .1 | Worker's Compensation:  |  |
|    | a. State  | Statutory  |
|    | b. Applicable Federal (e.g. Longshoreman's)   | Statutory  |
|    | c. Employer's Liability   | \$100,000  |
| .2 | Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractor's Protection; Product Liability and Completed Operations; Broad Form Property Damage): |  |
|    | a. General Aggregate<br>(Except Products-Completed Operations)  | \$1,000,000  |
|    | b. Products-Completed Operations Aggregate  | \$1,000,000  |
|    | c. Personal/Advertising Injury (per person/organization)  | \$1,000,000  |
|    | d. Each Occurrence<br>(Bodily Injury and Property Damage)   | \$1,000,000  |
|    | e. Limit per Person Medical Expense   | \$5,000  |
|    | f. Exclusions of Property in Contractors Care,<br>Custody or Control will be eliminated.  |  |
|    | g. Property Damage Liability Insurance will provide Coverage for Explosion,<br>Collapse, and Underground Damage.  |  |
| .3 | Contractual Liability:  |  |
|    | a. General Aggregate  | \$1,000,000  |
|    | b. Each Occurrence<br>(Bodily Injury and Property Damage)   | \$1,000,000  |
| .4 | Automobile Liability:   |  |
|    | a. Bodily Injury  | \$500,000 Each Person<br>\$1,000,000 Each Accident                       |
|    | b. Property Damage  | \$500,000 Each Accident,<br>or a combined single<br>limit of \$1,000,000 |



- .5 Liability coverage for the Owner, the Architect, the Architect's Consultants and others listed in the Supplementary Conditions will be provided (subject to customary exclusions for professional liability), by endorsement as additional insureds on the Contractor's Liability Policy.
- .6 Excess Liability Umbrella Form:
  - a. General Aggregate \$1,000,000
  - b. Each Occurrence \$1,000,000

§ 2.6.10 At the Owner's request, the Construction Manager may assist the Owner in obtaining a policy of All Risk - Builder's Risk Property Insurance for each project for the benefit of the Owner, Construction Manager, and all Trade Contractors and Suppliers which shall be paid by the Owner.

### ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

#### § 3.1 Definition

The Construction Manager's Basic Services consist of those described in Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, and allocation of construction activities among the Multiple Prime Contractors.

#### § 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Architect.

§ 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project.

§ 3.2.4 Based on preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.

§ 3.2.5 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.6 The Construction Manager shall advise the Owner and Architect if it appears that the Construction Cost may exceed the latest established Project Budget, as described on the previously approved BG-1, 2013, and make recommendations for corrective action. When corrective action is necessary, the Construction Manager shall, with the Architect's assistance, assist the Owner in decreasing the Project Scope or amend the BG-1, 2013, providing for increased funding requirements to be approved by the Kentucky Department of Education.

§ 3.2.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement. The Construction Manager shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Architect's review

and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

**§ 3.2.8** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations whenever the Construction Manager determines that design details adversely affect constructability, cost or schedules.

**§ 3.2.9** The Construction Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The Construction Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

**§ 3.2.10** The Construction Manager shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors.

**§ 3.2.11** The Construction Manager shall separate the Project into contracts for various categories of Work based on the labor force and construction trades available in that area of the State, including the method to be used for selecting Contractors and awarding Contracts. The Construction Manager shall provide 'breakouts' for materials to be purchased by the Owner directly from the suppliers. Material breakouts will be identified in the following manner: Item, Manufacturer, Supplier, Lump Sum Price, Alternates. If multiple Contracts are to be awarded, the Construction Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

**§ 3.2.12** The Construction Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

**§ 3.2.13** The Construction Manager shall expedite and coordinate the ordering and delivery of materials, including those that must be ordered well in advance of construction.

**§ 3.2.14** The Construction Manager shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

**§ 3.2.15** The Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Construction Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

**§ 3.2.16** The Construction Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and for quasi governmental authorities for inclusion in the Contract Documents.

**§ 3.2.17** Following the Owner's approval of the Drawings and Specifications, the Construction Manager shall update and submit the latest estimate of the Cost of the Work and the Project schedule for the Architect's review and the Owner's approval. The Construction Manager shall advise the Owner and Architect if it appears that the Construction Cost may exceed the latest established Project Budget, as described on the previously approved BG-1, 2013, and make recommendations for corrective action. When corrective action is necessary, the Construction Manager shall, with the Architect's assistance, assist the Owner in decreasing the Project Scope or amend the BG-1, providing for increased funding requirements to be approved by the KDE.

**§ 3.2.18** The Construction Manager shall submit the list of prospective bidders for the Architect's review and the Owner's approval. The Construction Manager, with the assistance of the Architect, shall prepare and issue bidding documents, which include all Kentucky Department of Education approved forms for Instructions to Bidders, General Conditions, Supplemental Conditions, all Proposed Contract Forms and Documents, language specific to individual bids, and specific bid process documentation, to bidders and conduct pre-bid conferences with prospective bidders. Bid packaging shall ensure at least five known potential bidders are notified of bidding requirements for each bid package. The Construction Manager and the Architect shall not prepare or issue bidding documents without first obtaining



Kentucky Department of Education and the Owner's approval of the bidding documents (completed plans and specifications) and the latest estimate of construction.

**§ 3.2.19** The Construction Manager shall develop bidders' interest in the Project and establish bidding schedules. The Construction Manager, with the assistance of the Architect, shall issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders. The Construction Manager shall issue the current Project schedule with each set of bidding documents. The Construction Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda. The Construction Manager shall not transport bidder's bid envelopes to the bid opening.

**§ 3.2.20** The Construction Manager shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts or rejection of bids.

**§ 3.2.21** The Construction Manager shall assist the Owner in preparing and compiling Construction Contracts, Purchase Orders, supporting documentation, Performance and Payment Bonds, and Certificates of Insurance, and advise the Owner on the acceptability of Subcontractors, and Material Suppliers proposed by Contractors. Provide all documents in a three-ring binder with index and assembled by bid division, including a Bid Tabulation, Proposal Form from the low Bidders, Bid Security, unexecuted Proposed Contract, unexecuted Proposed Purchase Orders, and submit to the Kentucky Department of Education, Frankfort, Kentucky, within 10 working days prior to the intended date for sale of revenue bonds.

**§ 3.2.22** The Construction Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

### **§ 3.3 Construction Phase Administration of the Construction Contract**

**§ 3.3.1** The Construction Phase will commence with the award of the initial Construction Contract or Purchase Order and together with the Construction Manager's obligation to provide Basic Services under this Agreement, will terminate when final payment to all Contractors and Material Suppliers is made, which coincides with Kentucky Department of Education approval of the BG-4, and after a one-year period of correction of work inspection is completed and all work is accepted by the Owner. The Construction Manager shall provide a minimum of a full-time on-site job superintendent and a designated project manager in the Construction Manager's central office to control and manage this Project until accepted by the Owner. This service includes inspections of and services related to the Project after the end of the Construction Phase to include year-end correction of work inspections. The Construction Manager shall have authority and responsibility as the Owner's representative, during the course of the Work to require changes in the means, methods, techniques, and procedures being implemented by the Contractor, if in the opinion of the Construction Manager, the Work is not being performed in such a manner as to meet the overall project schedule, and shall not be responsible for the failure of any Contractor to carry out Work in accordance with the Contract Documents.

**§ 3.3.2** The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site whenever the Work is being performed.

**§ 3.3.3** The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Architect as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition — KDE Version. If the Owner and Contractor modify AIA Document A232-2009 — KDE Version, those modifications shall not affect the Construction Manager's services under this Agreement unless the Owner and the Construction Manager amend this Agreement.

**§ 3.3.4** The Construction Manager shall schedule and conduct a minimum of bimonthly meetings to discuss, such matters as activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Architect. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

**§ 3.3.5** Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Architect, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in

advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action, if any, to the Owner and Architect.

**§ 3.3.6** Consistent with the various bidding documents, and utilizing information from the Contractor and Material Suppliers, the Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Architect and Multiple Prime Contractors.

**§ 3.3.7** Utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

**§ 3.3.8** The Construction Manager shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Architect.

**§ 3.3.9** The Construction Manager shall endeavor to obtain satisfactory performance from each of the Multiple Prime Contractors. The Construction Manager shall recommend courses of action to the Owner when requirements of a Contract are not being fulfilled.

**§ 3.3.10** The Construction Manager shall monitor and evaluate actual costs for activities in progress and estimates for uncompleted tasks and advise the Owner and Architect as to variances between actual and budgeted or estimated costs. If the Contractor is required to submit a Control Estimate, the Construction Manager shall meet with the Owner and Contractor to review the Control Estimate. The Construction Manager shall promptly notify the Contractor if there are any inconsistencies or inaccuracies in the information presented. The Construction Manager shall also report the Contractor's cost control information to the Owner.

**§ 3.3.11** The Construction Manager shall develop cash flow reports and forecasts for the Project. The Construction Manager shall provide the Owner and/or their Financial Consultant the appropriate reports and forecasts whenever project costs exceed the approved construction cost on the BG-1.

**§ 3.3.12** The Construction Manager shall maintain accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, and other Work requiring accounting records.

**§ 3.3.12.1** The Construction Manager shall develop and implement procedures for the review and processing of Applications for Payment by Multiple Prime Contractors for progress and final payments.

**§ 3.3.12.2** Not more frequently than monthly, the Construction Manager shall review and certify the amounts due the respective Contractors as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Construction Manager shall, within seven days after the Construction Manager receives the Contractor's Application for Payment, review the Application, certify the amount the Construction Manager determines is due the Contractor, and forward the Contractor's Application and Certificate for Payment to the Architect.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Construction Manager shall, within seven days after the Construction Manager receives each Contractor's Application for Payment: (1) review the Applications and certify the amount the Construction Manager determines is due each Contractor, (2) prepare a Summary of Contractors' Applications for Payment by summarizing information from each Contractor's Application for Payment, (3) prepare a Project Application and Certificate for Payment, (4) certify the total amount the Construction Manager determines is due all Multiple Prime Contractors collectively, and (5) forward the Summary of Contractors' Applications for Payment and Project Application and Certificate for Payment to the Architect.

**§ 3.3.12.3** The Construction Manager's certification for payment shall constitute a representation to the Owner, based on the Construction Manager's evaluations of the Work and on the data comprising the Contractors' Applications for Payment, that, to the best of the Construction Manager's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents. The foregoing



representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Construction Manager. The issuance of a Certificate for Payment shall further constitute a recommendation to the Architect and Owner that the Contractor be paid the amount certified. The Construction Manager shall review Contract Documents and check for conformance of all Owner purchased materials, systems, and equipment prior to authorization for a certificate of payment relating to any such Purchase Order items and ensure off-site stored materials are properly insured.

**§ 3.3.12.4** The certification of an Application for Payment or a Project Application for Payment by the Construction Manager shall not be a representation that the Construction Manager has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences for the Contractor's own Work, or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.3.13** The Construction Manager shall review the safety programs developed by each of the Multiple Prime Contractors solely and exclusively for purposes of coordinating the safety programs with those of the other Contractors and for making recommendations to the Owner for any safety programs not included in the Work of the Multiple Prime Contractors. The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Multiple Prime Contractors, Subcontractors, agents or employees of the Contractors or Multiple Prime Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

**§ 3.3.14** The Construction Manager shall determine in general that the Work of each Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner, Contractor and Architect of defects and deficiencies in the Work. The Construction Manager shall have the authority to reject Work that does not conform to the Contract Documents and shall notify the Architect about the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Architect and Owner pursuant to Section 3.3.20.1. Upon written authorization from the Owner, the Construction Manager, in consultation with the Architect and the Owner, shall reject and/or stop work which does not conform to the requirements of the Contract Documents. Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Architect of when and where the tests and inspections are to be made so that the Architect may be present for such procedures.

**§ 3.3.15** The Construction Manager shall advise and consult with the Owner and Architect during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work.

**§ 3.3.16** The Construction Manager shall transmit to the Architect requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

**§ 3.3.17** The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Architect and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Architect's modifications to the Contract Documents. All Change Orders are to be submitted in conformance to Kentucky Department of Education requirements for review and execution.

**§ 3.3.18** The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims, subject to Section 4.3.1.7.

Init.



**§ 3.3.19** Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Architect for approval. The Construction Manager shall promptly review all Shop Drawings, Product Data, Samples and other submittals from the Multiple Prime Contractors for compliance with the submittal requirements of the Contract, coordinate submittals with information contained in related documents, and transmit to the Architect those that the Construction Manager recommends for approval. The Construction Manager's actions shall be taken in accordance with the Project submittal schedule approved by the Architect, or in the absence of an approved Project submittal schedule, with such reasonable promptness as to cause no delay in the Work or in the activities of the Contractor, other Multiple Prime Contractors, the Owner, or the Architect.

**§ 3.3.20** The Construction Manager shall keep a daily log containing a record of weather, each Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

**§ 3.3.20.1** The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of remaining and outstanding submittals;
- .4 Request for information, Change Order, and Construction Change Directive status reports;
- .5 Tests and inspection reports;
- .6 Status report of nonconforming and rejected Work;
- .7 Daily logs;
- .8 Summary of all Multiple Prime Contractors' Applications for Payment;
- .9 Cumulative total of the Cost of the Work to date including the Construction Manager's compensation and reimbursable expenses at the job site, if any;
- .10 Cash-flow and forecast reports; and
- .11 Any other items the Owner may require:

**§ 3.3.21** Utilizing the documents provided by the Contractor, the Construction Manager shall maintain at the site one copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record all changes and selections made during construction, and in addition, approved Shop Drawings, Product Data, Samples and similar required submittals. The Construction Manager shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all such records available to the Architect and the Contractor, and upon completion of the Project, shall deliver them to the Owner.

**§ 3.3.22** The Construction Manager shall arrange for the delivery, storage, protection and security of Owner-purchased materials, systems and equipment that are a part of the Project until such items are incorporated into the Work.

**§ 3.3.23** With the Architect and the Owner's maintenance personnel, the Construction Manager shall observe the Contractor's or Multiple Prime Contractors' final testing and start-up of utilities, operational systems and equipment and observe any commissioning as the Contract Documents may require.

**§ 3.3.24** When the Construction Manager considers each Contractor's Work or a designated portion thereof is substantially complete, the Construction Manager shall, jointly with the Contractor, prepare for the Architect a list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Architect in conducting inspections to determine whether the Work or designated portion thereof is substantially complete.

**§ 3.3.25** When the Work or designated portion thereof is substantially complete, the Construction Manager shall prepare, and the Construction Manager and Architect shall execute, a Certificate of Substantial Completion. The Construction